IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MS JUSTICE G.ROHINI
WRIT PETITION NO : 10953 of 2004

Between:
P. Ramanaiah S/o. Pedasambaiah
Borravaripalem vill, Prathipadu Mandal, Guntur District.
..... PETITIONER

AND

1 The Asst. Commissioner of Endowments Guntur.
2 Koyavaripalem Inam Charitable Tank, Koyavaripalem vill, Prathipadu Mandal, Guntur Dist.
rep. by its Person-in-charge.
3 K. Srinivas S/o. Gangaiah
Koyavaripalem, Prathipadu Mandal, Guntur District.
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Mandamus declaring the action of the 2nd respondent in conducting sham auction on 13.6.2004 and seeking to evict the petitioner from Ac.1-79 cents of agricultural land in D.No. 225 of Koyavaripalem village, in prathipadu mandal in Guntur District without considering the petitioner's entitlement as poor farmer under the provisions of the A.P. Charitable and Hindu Religious Endowments Act, 1987 and G.O.Ms.No. 379, Revenue (Endts.I) Dept., dt. 11.3.2003 as illegal, arbitrary and unconstitutional and consequently direct the respondents to confer the benefit given by the A.P. Charitable and Hindu Religious endowments Act, 1987 and G.O.Ms.No.379, Rev. (Endts.I) Dept. dt.11.3.2003 to landless poor farmers.

Counsel for the Petitioner: MR.SRINIVASA RAO BODDULURI

Counsel for the Respondent No.1: GP FOR ENDOWMENTS

Counsel for the Respondent No.2 : Smt.N.Indrani.
The Court at the admission stage made the following :

THE HONOURABLE MS.JUSTICE G.ROHINI

WRIT PETITION NO.10953 OF 2004

ORDER:

The petitioner claims to be the cultivating tenant in respect of Ac.1.79 cents of land belonging to the second respondent. He also states that apart from the said land he is also in possession of Ac.3.20 cents of dry land of his own. The petitioner claims that he is landless poor person and therefore, entitled to the benefit of sub-section (2) of Section 82 of the Act. It is alleged that the second respondent without either terminating the lease in his favour or taking any steps to recover the possession of the land in his occupation, conducted an auction on 13.6.2004 in respect of the lease hold rights of the lands in question in which the third respondent herein was declared as the highest bidder. In pursuance of the same when an attempt was made to dispossess the petitioner, this writ petition has been filed seeking a declaration that the action of the second respondent in conducting the auction on 13.6.2004 and seeking to evict him from the lands in question as arbitrary and illegal and contrary the provisions of the A.P.Charitable and Hindu Religious Endowments Act, 1987 (for short "the Act") and the Rules under G.O.Ms.No.379, dated 11.3.2003.

This Court while directing notice before admission by an order dated 5.7.2004 granted interim orders to maintain status quo obtaining as on that date. After receipt of notice a counter affidavit has been filed

by the Manager of the second respondent denying all the allegations made by the petitioner. It is further stated that after the Rules were made under G.O.Ms.No.379, dated 11.3.2003, a notice dated 12.4.2003 was issued under Rule-5(1) directing the petitioner to hand over vacant possession of the land in question within 30 days. Even after receipt of the said notice, the petitioner failed to make any representation either to continue him as lessee or to determine status of the petitioner as landless poor person. In the circumstances a public auction was conducted in respect of the lease hold rights of the land in question after following due process of law. The auction proceedings have also been sent to the first respondent for approval. However, further steps could not be taken in view of the interim orders granted by this Court.

Heard both sides and perused the record.

Having regard to the rival claims made by the parties and in the light of the material on record, it is to be noted that the petitioner still continues to be in possession of the land in question. It is also relevant to note that admittedly the extent of land belonging to the second respondent, which has been in occupation of the petitioner, is to an extent of Ac.1.75 cents of dry land. It is also relevant to note that so far no enquiry has been conducted by the Assistant Commissioner of Endowments with regard to the status of the petitioner.

In the circumstances, I deem it appropriate to dispose of the writ petition granting leave and liberty to the petitioner to make an appropriate claim before the Assistant Commissioner of Endowments, Guntur, within a period of two weeks from today. If such a claim is made, the Assistant Commissioner of Endowments shall make the necessary enquiry after affording due opportunity to both the parties and pass appropriate orders in accordance with law as provided under Rule-3 of the Rules made under G.O.Ms.No.379, dated 11.3.2004, within a period of three weeks from the date of receipt of claim from the petitioner. Till

such orders are passed, the order of status quo granted by this Court on 5.7.2004 shall continue.

The writ petition is accordingly disposed of. No costs.

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(G.ROHINI,J)

Date: 21.9.2004.
Note:
Issue C.C.in three (3) days.
B/o
Mdaa.

Copy to,

1 The Asst. Commissioner of Endowments Guntur.

2. The Person-in-charge, Koyavaripalem Inam Charitable Tank, Koyavaripalem vill, Prathipadu Mandal, Guntur Dist.

3. Two C.Cs. to G.P., for Endowments, High Court of A.P., Hyderabad (OUT)

4. Two C.D.copies.